
By: ~~Delegates McIntosh and Bobo~~, **Bobo, Burns, Conroy, D. Davis, Doory,
Feldman, Glassman, Kirk, Krysiak, Love, McHale, Minnick, Moe,
Parrott, Taylor, Trueschler, Vaughn, and Walkup**

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CHAPTER _____

1 AN ACT concerning

2 **Maryland Debt Management Services Act**

3 FOR the purpose of prohibiting a person from providing debt management services to
4 certain consumers unless licensed by the Commissioner of Financial Regulation
5 or exempt from licensing under this Act; authorizing the Commissioner to take
6 certain actions to carry out this Act; ~~authorizing~~ requiring the Commissioner by
7 regulation to establish certain fees; establishing a certain Debt Management
8 Services Fund; establishing certain qualifications for an applicant for a license;
9 requiring an applicant to submit a certain application, pay certain fees, ~~and~~ file
10 a certain surety bond, ~~and file evidence of a certain surety bond~~; requiring an
11 applicant, ~~and a licensee, and certain other individuals~~ to provide fingerprints
12 under certain circumstances; requiring the Commissioner to investigate an
13 applicant and approve or deny each application for a license within a certain
14 period of time; requiring the Commissioner to include certain information on
15 each license; requiring a licensee that offers or provides debt management
16 services through the Internet to include a certain notice on its website;
17 providing for the renewal of a license; establishing procedures for surrendering
18 a license; specifying certain requirements for a certain surety bond required
19 under this Act; requiring a licensee to give certain notices to and file certain
20 reports with the Commissioner; requiring a licensee to give certain notice to and
21 obtain approval of the Commissioner before the licensee changes a certain
22 business location or undergoes a certain change in control; establishing certain
23 penalties for failing to provide timely notice of certain proposed changes to the
24 Commissioner; ~~establishing~~ authorizing a certain penalty for failure to file
25 certain reports; prohibiting a licensee from performing debt management
26 services for a consumer unless certain actions have been taken; specifying the

1 contents of a debt management services agreement; requiring a licensee to
2 deposit, in a certain trust account, certain funds received by the licensee;
3 requiring a certain agent of a licensee to maintain a certain surety bond in a
4 certain amount; prohibiting a licensee from imposing certain fees or other
5 charges or receiving certain funds or payments except under certain
6 circumstances; prohibiting a licensee from requiring a voluntary contribution;
7 authorizing a licensee to accept a voluntary contribution under certain
8 circumstances; providing that a debt management services agreement shall be
9 void and the licensee shall return to the consumer certain fees, charges, funds,
10 or payments under certain circumstances; providing a specific right of rescission
11 for a consumer within a certain period of time; requiring a licensee to provide
12 certain accountings to consumers at certain times; establishing certain
13 prohibited acts; requiring ~~a licensee~~ certain persons to make and preserve
14 certain books, accounts, and records for a certain period of time and in a certain
15 location and form; providing that certain government officials may disclose
16 certain information only in accordance with certain provisions of law; requiring
17 a licensee to include in any advertisement the licensee's debt management
18 services license number; authorizing the Commissioner to investigate certain
19 persons for certain purposes and to conduct certain on-site examinations of a
20 licensee; authorizing the Commissioner to deny a license to an applicant,
21 reprimand a licensee, or suspend or revoke the license of a licensee under
22 certain circumstances; requiring the Commissioner to deny a license to an
23 applicant and suspend or revoke the license of a licensee under certain
24 circumstances; requiring the Commissioner to give an applicant or licensee an
25 opportunity for a hearing under certain circumstances; authorizing the
26 Commissioner to issue certain orders, impose certain civil penalties, and file
27 certain petitions to enforce this Act; providing certain criminal penalties for
28 certain violations of this Act; providing that a consumer may bring a civil action
29 to recover for damages caused by a certain violation; establishing a certain short
30 title; establishing the scope of this Act; defining certain terms; repealing certain
31 provisions of law governing the business of debt adjusting; allowing certain
32 organizations providing debt management services in the State on the effective
33 date of this Act to continue to provide debt management services without being
34 licensed until a certain time under certain circumstances; establishing the
35 expiration date of a license issued within a certain time period; requiring the
36 Commissioner to report on certain information and recommendations to certain
37 committees of the General Assembly on or before a certain date; establishing the
38 Debt Management Services Fund as an account within a certain fund, subject to
39 a certain contingency; and generally relating to the Maryland Debt
40 Management Services Act.

41 BY repealing
42 Article - Commercial Law
43 Section 14-1316
44 Annotated Code of Maryland
45 (2000 Replacement Volume and 2002 Supplement)

46 BY adding to

1 Article - Financial Institutions
2 Section 12-901 through ~~12-930~~ 12-931, inclusive, to be under the new subtitle
3 "Subtitle 9. Maryland Debt Management Services Act"
4 Annotated Code of Maryland
5 (1998 Replacement Volume and 2002 Supplement)

6 BY repealing and reenacting, with amendments,

7 Article - Financial Institutions
8 Section 12-905
9 Annotated Code of Maryland
10 (1998 Replacement Volume and 2002 Supplement)
11 (As enacted by Section 1 of this Act)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Commercial Law**

15 [14-1316.

16 (a) In this section, "debt adjusting" means the making of a contract, expressed
17 or implied, with a debtor and another person engaged in the debt adjusting business
18 by which the debtor agrees to pay a certain amount of money periodically to the other,
19 who for consideration distributes the money among specified creditors in accordance
20 with an agreed plan.

21 (b) A person may not engage in the business of debt adjusting.

22 (c) A person who violates this section is guilty of a misdemeanor and on
23 conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding
24 \$500 or both.

25 (d) This section does not apply to the following when engaged in the regular
26 course of their respective businesses and professions:

27 (1) A lawyer;

28 (2) A bank or fiduciary, authorized to transact business in this State and
29 perform credit and financial adjusting service in the regular course of its principal
30 business;

31 (3) A title insurer or abstract company, while doing an escrow business;

32 (4) A judicial officer or a person acting under a court order;

33 (5) A nonprofit, religious, fraternal, or cooperative organization that
34 offers debt management service exclusively for members, if a charge is not made and
35 a fee is not imposed;

1 (6) A certified public accountant; and

2 (7) A trade or mercantile association in the course of arranging the
3 adjustment of debts with a business establishment.]

4 **Article - Financial Institutions**

5 SUBTITLE 9. MARYLAND DEBT MANAGEMENT SERVICES ACT.

6 12-901.

7 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) (1) "CONSULTATION FEE" MEANS A FEE PAID BY A CONSUMER TO A
10 DEBT MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH EVALUATION OF
11 AND CONSULTATION ABOUT THE CONSUMER'S FINANCIAL CONDITION.

12 (2) "CONSULTATION FEE" INCLUDES A FEE PAID IN CONNECTION WITH
13 THE PROCESSING OF ANY APPLICATION THAT THE CONSUMER MAKES FOR DEBT
14 MANAGEMENT SERVICES.

15 ~~(B)~~ (C) "CONSUMER" MEANS AN INDIVIDUAL WHO:

16 (1) RESIDES IN THE STATE; AND

17 (2) IS SEEKING DEBT MANAGEMENT SERVICES OR HAS ENTERED INTO A
18 DEBT MANAGEMENT SERVICES AGREEMENT.

19 ~~(C)~~ (D) "CONSUMER EDUCATION PROGRAM" MEANS A PROGRAM OR PLAN
20 THAT SEEKS TO IMPROVE THE FINANCIAL LITERACY OF CONSUMERS.

21 ~~(D)~~ (E) "DEBT MANAGEMENT COUNSELOR" MEANS A PERMANENT,
22 TEMPORARY, OR CONTRACTUAL EMPLOYEE OF A DEBT MANAGEMENT SERVICES
23 PROVIDER WHO PROVIDES ~~DEBT MANAGEMENT ADVICE~~ COUNSELING TO
24 CONSUMERS ON BEHALF OF THE DEBT MANAGEMENT SERVICES PROVIDER.

25 ~~(E)~~ (F) "DEBT MANAGEMENT SERVICES" MEANS:

26 ~~(+)~~ RECEIVING FUNDS PERIODICALLY FROM A CONSUMER UNDER AN
27 AGREEMENT WITH THE CONSUMER FOR THE PURPOSE OF DISTRIBUTING THE FUNDS
28 AMONG THE CONSUMER'S CREDITORS IN ~~PAYMENT~~ FULL OR PARTIAL PAYMENT OF
29 THE CONSUMER'S DEBTS; ~~OR~~

30 ~~(-)~~ SETTLING, ADJUSTING, PRORATING, POOLING, COMPROMISING, OR
31 LIQUIDATING THE INDEBTEDNESS OF A CONSUMER.

32 ~~(F)~~ (G) "DEBT MANAGEMENT SERVICES AGREEMENT" MEANS A WRITTEN
33 CONTRACT, PLAN, OR AGREEMENT BETWEEN A DEBT MANAGEMENT SERVICES

1 PROVIDER AND A CONSUMER FOR THE PERFORMANCE OF DEBT MANAGEMENT
2 SERVICES.

3 ~~(G)~~ (H) "DEBT MANAGEMENT SERVICES PROVIDER" MEANS AN
4 ORGANIZATION THAT PROVIDES OR OFFERS TO PROVIDE DEBT MANAGEMENT
5 SERVICES TO A CONSUMER ~~IN THE STATE~~.

6 ~~(H)~~ (I) "FUND" MEANS THE DEBT MANAGEMENT SERVICES FUND
7 ESTABLISHED UNDER § 12-905 OF THIS SUBTITLE.

8 ~~(I)~~ (J) "LICENSEE" MEANS AN ORGANIZATION LICENSED UNDER THIS
9 SUBTITLE TO PROVIDE DEBT MANAGEMENT SERVICES.

10 ~~(J)~~ (K) "MAINTENANCE FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT
11 MANAGEMENT SERVICES PROVIDER FOR THE MAINTENANCE OR SERVICING OF THE
12 CONSUMER'S ACCOUNTS WITH THE CONSUMER'S CREDITORS IN ACCORDANCE WITH
13 A DEBT MANAGEMENT SERVICES AGREEMENT.

14 ~~(K)~~ (L) "ORGANIZATION" MEANS A NONPROFIT ORGANIZATION THAT IS
15 EXEMPT FROM TAXATION UNDER § 501(C) OF THE INTERNAL REVENUE CODE.

16 ~~(L)~~ (M) "RESIDENT AGENT" MEANS AN INDIVIDUAL RESIDING IN THE STATE
17 OR A MARYLAND CORPORATION WHOSE NAME, ADDRESS, AND DESIGNATION AS A
18 RESIDENT AGENT ARE FILED OR RECORDED WITH THE STATE DEPARTMENT OF
19 ASSESSMENTS AND TAXATION IN ACCORDANCE WITH THE PROVISIONS OF THE
20 CORPORATIONS AND ASSOCIATIONS ARTICLE.

21 ~~(M)~~ ~~"SET-UP FEE" MEANS A FEE PAID BY A CONSUMER TO A DEBT~~
22 ~~MANAGEMENT SERVICES PROVIDER IN CONNECTION WITH THE PROCESSING OF THE~~
23 ~~CONSUMER'S APPLICATION FOR DEBT MANAGEMENT SERVICES.~~

24 (N) "TRUST ACCOUNT" MEANS AN ACCOUNT THAT IS:

25 (1) ESTABLISHED IN A FINANCIAL INSTITUTION THAT IS FEDERALLY
26 INSURED;

27 (2) SEPARATE FROM THE DEBT MANAGEMENT SERVICES PROVIDER'S
28 OPERATING ACCOUNT;

29 (3) ~~IMPRESSED WITH A TRUST THAT IS FREE FROM THE TRUSTEE~~
30 ~~PROCESS DESIGNATED AS A "TRUST ACCOUNT" OR BY ANOTHER APPROPRIATE~~
31 DESIGNATION INDICATING THAT THE FUNDS IN THE ACCOUNT ARE NOT THE FUNDS
32 OF THE LICENSEE OR ITS OFFICERS, EMPLOYEES, OR AGENTS;

33 (4) UNAVAILABLE TO CREDITORS OF THE DEBT MANAGEMENT
34 SERVICES PROVIDER; AND

35 (5) USED TO HOLD FUNDS PAID BY CONSUMERS TO A DEBT
36 MANAGEMENT SERVICES PROVIDER FOR DISBURSEMENT TO CREDITORS OF THE
37 CONSUMERS.

1 12-902.

2 THIS SUBTITLE DOES NOT APPLY TO:

3 (1) THE FOLLOWING PERSONS WHEN ENGAGED IN THE REGULAR
4 COURSE OF THEIR RESPECTIVE BUSINESSES AND PROFESSIONS:

5 (I) AN ATTORNEY AT LAW;

6 (II) AN ESCROW AGENT;

7 (III) A CERTIFIED PUBLIC ACCOUNTANT;

8 (IV) ~~A BANK, SAVINGS AND LOAN, CREDIT UNION, OR TRUST~~
9 ~~COMPANY BANKING INSTITUTION, OTHER-STATE BANK, NATIONAL BANKING~~
10 ~~ASSOCIATION, CREDIT UNION, OR SAVINGS AND LOAN ASSOCIATION;~~

11 (V) A PERSON THAT:

12 1. PROVIDES BILL PAYER SERVICES, AS DEFINED IN § 12-401
13 OF THIS TITLE;

14 2. DOES NOT INITIATE ANY CONTRACT WITH INDIVIDUAL
15 CREDITORS OF THE DEBTOR TO COMPROMISE A DEBT OR ARRANGE A NEW PAYMENT
16 SCHEDULE; AND

17 3. DOES NOT PROVIDE ANY DEBT COUNSELING SERVICES;

18 (VI) A PERSON THAT PROVIDES ACCELERATED MORTGAGE
19 PAYMENT SERVICES, AS DEFINED IN § 12-401 OF THIS TITLE;

20 (VII) AN APPROVED SERVICER, AS DEFINED IN § 11-522 OF THIS
21 ARTICLE;

22 ~~(VIII)~~ (VIII) A TITLE INSURER, TITLE INSURANCE AGENCY, OR
23 ABSTRACT COMPANY; OR

24 ~~(IX)~~ (IX) A JUDICIAL OFFICER OR A PERSON ACTING UNDER A
25 COURT ORDER;

26 (2) A PERSON WHILE PERFORMING SERVICES INCIDENTAL TO THE
27 DISSOLUTION, WINDING UP, OR LIQUIDATION OF A PARTNERSHIP, CORPORATION, OR
28 OTHER BUSINESS ENTERPRISE; ~~OR~~

29 (3) A TRADE OR MERCANTILE ASSOCIATION ACTING IN THE COURSE OF
30 ARRANGING THE ADJUSTMENT OF DEBTS WITH A BUSINESS ESTABLISHMENT; OR

31 (4) A MORTGAGE LENDER, AS DEFINED IN § 11-501 OF THIS ARTICLE,
32 THAT:

33 (I) IS LICENSED BY THE COMMISSIONER; AND

1 (II) DOES NOT RECEIVE FUNDS FROM A CONSUMER FOR THE
2 PURPOSE OF DISTRIBUTING THE FUNDS AMONG THE CONSUMER'S CREDITORS IN
3 FULL OR PARTIAL PAYMENT OF THE CONSUMER'S DEBTS.

4 12-903.

5 TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE, THE COMMISSIONER MAY:

6 (1) ADOPT RULES AND REGULATIONS;

7 (2) ENTER INTO COOPERATIVE AND INFORMATION SHARING
8 AGREEMENTS WITH ANY OTHER FEDERAL OR STATE AGENCIES HAVING
9 SUPERVISORY RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES;
10 AND

11 (3) ~~PROVIDE ANY FEDERAL OR STATE AGENCY HAVING SUPERVISORY~~
12 ~~RESPONSIBILITY OVER DEBT MANAGEMENT SERVICES BUSINESSES WITH ANY~~
13 ~~DOCUMENTS OR OTHER INFORMATION EXCHANGE INFORMATION ABOUT A DEBT~~
14 ~~MANAGEMENT SERVICES PROVIDER, INCLUDING INFORMATION OBTAINED DURING~~
15 ~~AN EXAMINATION, WITH ANY STATE OR FEDERAL AGENCY HAVING AUTHORITY OVER~~
16 ~~THE DEBT MANAGEMENT SERVICES PROVIDER.~~

17 12-904.

18 (A) THE COMMISSIONER BY REGULATION SHALL ESTABLISH:

19 (1) (I) A FEE, NOT EXCEEDING ~~\$1,000~~ \$2,000, FOR THE ISSUANCE OF A
20 LICENSE UNDER THIS SUBTITLE IN AN EVEN-NUMBERED YEAR; AND

21 (II) A FEE, NOT EXCEEDING \$1,000, FOR THE ISSUANCE OF A
22 LICENSE UNDER THIS SUBTITLE IN AN ODD-NUMBERED YEAR;

23 (2) A FEE, NOT EXCEEDING ~~\$1,000~~ \$2,000, FOR RENEWAL OF A LICENSE
24 ISSUED UNDER THIS SUBTITLE;

25 (3) A FEE, NOT EXCEEDING \$100, FOR EACH LOCATION IN THE STATE AT
26 WHICH A LICENSEE PROVIDES DEBT MANAGEMENT SERVICES UNDER THIS
27 SUBTITLE, PAYABLE AT THE TIME OF ISSUANCE OF AN INITIAL LICENSE AND AT
28 EACH RENEWAL OF A LICENSE; AND

29 (4) A FEE, NOT EXCEEDING \$1,000, FOR AN INVESTIGATION OF AN
30 APPLICANT OR LICENSEE UNDER THIS SUBTITLE.

31 (B) ANY FEES CHARGED BY THE COMMISSIONER UNDER THIS SUBTITLE
32 SHALL APPROXIMATE THE DIRECT AND INDIRECT COSTS OF ADMINISTERING AND
33 ENFORCING THIS SUBTITLE.

34 12-905.

35 (A) THERE IS A DEBT MANAGEMENT SERVICES FUND THAT CONSISTS OF:

1 (1) ALL REVENUE RECEIVED FOR THE LICENSING OF ORGANIZATIONS
2 THAT PROVIDE DEBT MANAGEMENT SERVICES UNDER THIS SUBTITLE;

3 (2) INCOME FROM INVESTMENTS THAT THE TREASURER MAKES FOR
4 THE FUND; AND

5 (3) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ANY
6 OTHER FEE OR REVENUE RECEIVED BY THE COMMISSIONER UNDER THIS SUBTITLE.

7 (B) THE COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED
8 BY THE COMMISSIONER UNDER THIS SUBTITLE INTO THE GENERAL FUND OF THE
9 STATE.

10 (C) THE PURPOSE OF THE FUND IS TO PAY ALL THE COSTS AND EXPENSES
11 INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGULATION OF THE
12 DEBT MANAGEMENT SERVICES BUSINESS UNDER THIS SUBTITLE, INCLUDING:

13 (1) EXPENDITURES AUTHORIZED UNDER THIS SUBTITLE; AND

14 (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.

15 (D) (1) THE TREASURER IS THE CUSTODIAN OF THE FUND.

16 (2) THE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM THE
17 COMMISSIONER INTO THE FUND.

18 (E) (1) THE FUND IS A CONTINUING, NONLAPSING FUND THAT IS NOT
19 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE, AND MAY
20 NOT BE DEEMED A PART OF THE GENERAL FUND OF THE STATE.

21 (2) UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY
22 REVERT OR BE CREDITED TO:

23 (I) THE GENERAL FUND OF THE STATE; OR

24 (II) A SPECIAL FUND OF THE STATE.

25 (F) (1) ALL THE COSTS AND EXPENSES OF THE COMMISSIONER RELATING
26 TO THE REGULATION OF THE DEBT MANAGEMENT SERVICES BUSINESS UNDER THIS
27 SUBTITLE SHALL BE INCLUDED IN THE STATE BUDGET.

28 (2) ANY EXPENDITURES FROM THE FUND TO COVER COSTS AND
29 EXPENSES OF THE COMMISSIONER MAY BE MADE ONLY:

30 (I) BY AN APPROPRIATION FROM THE FUND APPROVED BY THE
31 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

32 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §
33 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

1 (3) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE REVENUE COLLECTED
2 BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL
3 APPROPRIATION FOR THE COMMISSIONER TO REGULATE THE DEBT MANAGEMENT
4 SERVICES BUSINESS UNDER THIS SUBTITLE, THE EXCESS AMOUNT SHALL BE
5 CARRIED FORWARD WITHIN THE FUND.

6 (G) THE OFFICE OF LEGISLATIVE AUDITS SHALL AUDIT THE ACCOUNTS AND
7 TRANSACTIONS OF THE FUND UNDER § 2-1220 OF THE STATE GOVERNMENT ARTICLE.

8 12-906.

9 A PERSON MAY NOT PROVIDE DEBT MANAGEMENT SERVICES ~~IF THAT PERSON,~~
10 ~~OR THE PERSON WITH WHOM THAT PERSON PROVIDES DEBT MANAGEMENT~~
11 ~~SERVICES, IS LOCATED IN THE STATE~~ TO CONSUMERS UNLESS THAT THE PERSON:

12 (1) IS LICENSED BY THE COMMISSIONER UNDER THIS SUBTITLE; OR

13 (2) IS EXEMPT FROM LICENSING UNDER THIS SUBTITLE.

14 12-907.

15 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE
16 COMMISSIONER THAT:

17 (1) THE APPLICANT IS AN ORGANIZATION;

18 (2) EACH OF THE OWNERS, OFFICERS, DIRECTORS, AND PRINCIPALS OF
19 THE APPLICANT HAS SUFFICIENT EXPERIENCE, CHARACTER, FINANCIAL
20 RESPONSIBILITY, AND GENERAL FITNESS TO:

21 (I) ENGAGE IN THE BUSINESS OF PROVIDING DEBT MANAGEMENT
22 SERVICES;

23 (II) WARRANT THE BELIEF THAT THE DEBT MANAGEMENT
24 SERVICES BUSINESS WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND
25 EFFICIENTLY; AND

26 (III) COMMAND THE CONFIDENCE OF THE PUBLIC;

27 (3) EACH AGENT ACTING ON BEHALF OF THE APPLICANT TO MANAGE A
28 TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS SUBTITLE HAS SUFFICIENT
29 EXPERIENCE, CHARACTER, FINANCIAL RESPONSIBILITY, AND GENERAL FITNESS TO:

30 (I) ENGAGE IN THE BUSINESS OF MANAGING A TRUST ACCOUNT;

31 (II) WARRANT THE BELIEF THAT THE MANAGEMENT OF THE TRUST
32 ACCOUNT WILL BE CONDUCTED LAWFULLY, HONESTLY, FAIRLY, AND EFFICIENTLY;
33 AND

34 (III) COMMAND THE CONFIDENCE OF THE PUBLIC; AND

1 (4) THE APPLICANT HAS A NET WORTH COMPUTED ACCORDING TO
2 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES OF AT LEAST \$50,000, PLUS AN
3 ADDITIONAL NET WORTH OF \$10,000 FOR EACH LOCATION AT WHICH DEBT
4 MANAGEMENT SERVICES WILL BE PROVIDED TO ~~THE PUBLIC CONSUMERS~~, UP TO A
5 MAXIMUM OF \$500,000 AS PROVIDED IN SUBSECTION (B) OF THIS SECTION.

6 (B) THE COMMISSIONER MAY REQUIRE A NET WORTH OF UP TO \$500,000,
7 SUBJECT TO A CONSIDERATION OF THE FOLLOWING:

8 (1) THE NATURE AND VOLUME OF THE BUSINESS OR PROPOSED
9 BUSINESS OF THE APPLICANT;

10 (2) THE AMOUNT, NATURE, QUALITY, AND LIQUIDITY OF THE ASSETS OF
11 THE APPLICANT;

12 (3) THE AMOUNT AND NATURE OF THE LIABILITIES, INCLUDING
13 CONTINGENT LIABILITIES, OF THE APPLICANT;

14 (4) THE HISTORY OF AND PROSPECTS FOR THE APPLICANT TO EARN
15 AND RETAIN INCOME;

16 (5) THE QUALITY OF THE OPERATIONS OF THE APPLICANT;

17 (6) THE QUALITY OF THE MANAGEMENT OF THE APPLICANT;

18 (7) THE NATURE AND QUALITY OF THE PERSON THAT HAS CONTROL OF
19 THE APPLICANT; AND

20 (8) ANY OTHER FACTOR THAT THE COMMISSIONER CONSIDERS
21 RELEVANT.

22 12-908.

23 (A) TO APPLY FOR A LICENSE, AN APPLICANT SHALL SUBMIT TO THE
24 COMMISSIONER AN APPLICATION ON THE FORM THAT THE COMMISSIONER
25 PROVIDES.

26 (B) THE APPLICATION SHALL INCLUDE:

27 (1) THE APPLICANT'S NAME, BUSINESS ADDRESS, TELEPHONE NUMBER,
28 ELECTRONIC MAIL ADDRESS, IF ANY, AND WEBSITE ADDRESS, IF ANY;

29 (2) THE ADDRESS OF EACH LOCATION IN THE STATE AT WHICH THE
30 APPLICANT WILL PROVIDE DEBT MANAGEMENT SERVICES;

31 (3) THE NAME AND ADDRESS OF EACH OWNER, OFFICER, DIRECTOR,
32 AND PRINCIPAL OF THE APPLICANT;

33 (4) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE
34 APPLICANT'S RESIDENT AGENT IN THE STATE;

1 (5) A DESCRIPTION OF THE OWNERSHIP INTEREST OF ANY OFFICER,
2 DIRECTOR, AGENT, OR EMPLOYEE OF THE APPLICANT IN ANY AFFILIATE OR
3 SUBSIDIARY OF THE APPLICANT OR IN ANY OTHER BUSINESS ENTITY THAT
4 PROVIDES ANY SERVICE TO THE APPLICANT OR ANY CONSUMER RELATING TO THE
5 APPLICANT'S DEBT MANAGEMENT SERVICES BUSINESS;

6 (6) THE NAME AND ADDRESS OF ANY AGENT ACTING ON BEHALF OF THE
7 APPLICANT TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917 OF THIS
8 SUBTITLE;

9 (7) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION NUMBER;

10 (8) A LIST OF ANY STATE IN WHICH:

11 (I) THE APPLICANT ENGAGES IN THE BUSINESS OF PROVIDING
12 DEBT MANAGEMENT SERVICES;

13 (II) THE APPLICANT IS REGISTERED OR LICENSED TO PROVIDE
14 DEBT MANAGEMENT SERVICES; AND

15 (III) THE APPLICANT'S REGISTRATION OR LICENSE HAS BEEN
16 SUSPENDED OR REVOKED;

17 (9) A STATEMENT OF WHETHER ANY PENDING JUDGMENT, TAX LIEN,
18 MATERIAL LITIGATION, OR ADMINISTRATIVE ACTION BY ANY GOVERNMENT AGENCY
19 EXISTS AGAINST THE APPLICANT;

20 (10) THE MOST RECENT, UNCONSOLIDATED FINANCIAL STATEMENT OF
21 THE APPLICANT THAT:

22 (I) IS PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
23 ACCOUNTING PRINCIPLES APPLIED ON A CONSISTENT BASIS;

24 (II) INCLUDES A CERTIFIED OPINION AUDIT PREPARED BY AN
25 INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AND

26 (III) WAS PREPARED NO MORE THAN 12 MONTHS BEFORE THE DATE
27 OF APPLICATION;

28 (11) EVIDENCE OF NONPROFIT STATUS UNDER § 501(C) OF THE INTERNAL
29 REVENUE CODE;

30 (12) IF THE APPLICANT IS A CORPORATION, A DETAILED DESCRIPTION OF
31 THE APPLICANT'S CORPORATE STRUCTURE, INCLUDING PARENT COMPANIES,
32 SUBSIDIARIES, AND AFFILIATES;

33 (13) THE APPLICANT'S BUSINESS CREDIT REPORT;

34 (14) EVIDENCE OF GENERAL LIABILITY OR FIDELITY INSURANCE
35 ~~COVERAGE THAT RUNS TO THE STATE TO BE USED FOR THE BENEFIT OF ANY~~
36 ~~CONSUMER INJURED AS A RESULT OF THE~~ THAT INSURES AGAINST DISHONESTY,

1 FRAUD, THEFT, OR OTHER MALFEASANCE ON THE PART OF AN EMPLOYEE OF THE
2 APPLICANT;

3 (15) A DESCRIPTION OF THE APPLICANT'S CONSUMER EDUCATION
4 PROGRAM THAT IS PROVIDED TO CONSUMERS;

5 (16) A DESCRIPTION OF THE APPLICANT'S FINANCIAL ANALYSIS PLAN,
6 INCLUDING ANY FORM OR ELECTRONIC MODEL, THAT IS USED TO EVALUATE THE
7 FINANCIAL CONDITION OF CONSUMERS;

8 (17) A COPY OF THE DEBT MANAGEMENT SERVICES AGREEMENT THAT
9 THE APPLICANT WILL USE IN ITS DEBT MANAGEMENT SERVICES BUSINESS;

10 (18) A COPY OF THE APPLICANT'S PLAN TO ENSURE THAT EACH DEBT
11 MANAGEMENT COUNSELOR ~~EMPLOYED BY THE APPLICANT~~ IS CERTIFIED BY AN
12 INDEPENDENT ORGANIZATION WITHIN 6 MONTHS AFTER THE DEBT MANAGEMENT
13 COUNSELOR IS HIRED, AND THAT ANY EMPLOYEE WHO IS A SUPERVISOR OR
14 MANAGER OF A DEBT MANAGEMENT COUNSELOR IS CERTIFIED BY AN
15 INDEPENDENT ORGANIZATION WITHIN 3 MONTHS AFTER THE EMPLOYEE IS HIRED;
16 AND

17 (19) ANY OTHER INFORMATION THAT THE COMMISSIONER REASONABLY
18 REQUIRES.

19 (C) THE COMMISSIONER MAY REFUSE AN APPLICATION IF IT CONTAINS
20 ERRONEOUS OR INCOMPLETE INFORMATION.

21 (D) WITH THE APPLICATION, THE APPLICANT SHALL PAY TO THE
22 COMMISSIONER:

23 (1) A LICENSE FEE IN THE AMOUNT ESTABLISHED UNDER § 12-904 OF
24 THIS SUBTITLE; AND

25 (2) A NONREFUNDABLE INVESTIGATION FEE IN THE AMOUNT
26 ESTABLISHED UNDER § 12-904 OF THIS SUBTITLE.

27 (E) WITH THE APPLICATION, THE APPLICANT SHALL FILE A SURETY BOND
28 WITH THE COMMISSIONER AS PROVIDED IN § 12-914 OF THIS SUBTITLE.

29 12-909.

30 (A) IN CONNECTION WITH AN INITIAL APPLICATION, A RENEWAL
31 APPLICATION, AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS, AN
32 APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL
33 BUREAU OF INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION
34 SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
35 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

36 (B) AN APPLICANT OR LICENSEE REQUIRED TO PROVIDE FINGERPRINTS
37 UNDER THIS SECTION SHALL PAY ANY PROCESSING OR OTHER REQUIRED FEE.

1 (C) IF THE APPLICANT OR LICENSEE IS A CORPORATION, THE
2 FINGERPRINTING AND CRIMINAL HISTORY RECORDS CHECK REQUIREMENTS SHALL
3 APPLY TO THE PRESIDENT AND ANY OTHER OFFICER, DIRECTOR, PRINCIPAL, OR
4 OWNER OF THE CORPORATION AS REQUIRED BY THE COMMISSIONER.

5 (D) THE COMMISSIONER ~~MAY~~ SHALL REQUIRE ANY AGENT ACTING ON
6 BEHALF OF A LICENSEE TO MANAGE A TRUST ACCOUNT REQUIRED UNDER § 12-917
7 OF THIS SUBTITLE, AND ANY AGENT OF THE LICENSEE WHO HAS ACCESS TO THE
8 ACCOUNT, TO PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL BUREAU OF
9 INVESTIGATION AND THE MARYLAND CRIMINAL JUSTICE INFORMATION SYSTEM
10 CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND
11 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

12 12-910.

13 (A) AFTER AN APPLICANT FOR A LICENSE FILES A COMPLETE APPLICATION,
14 FILES A SURETY BOND, AND PAYS THE LICENSE AND INVESTIGATION FEES
15 REQUIRED UNDER THIS SUBTITLE, THE COMMISSIONER SHALL INVESTIGATE THE
16 FACTS RELEVANT TO THE APPLICATION TO DETERMINE IF THE APPLICANT MEETS
17 THE REQUIREMENTS OF THIS SUBTITLE.

18 (B) UNLESS THE COMMISSIONER NOTIFIES AN APPLICANT THAT A
19 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
20 DENY EACH APPLICATION FOR A LICENSE WITHIN 60 DAYS AFTER THE DATE ON
21 WHICH THE COMPLETE APPLICATION IS FILED, THE SURETY BOND IS FILED, AND
22 THE FEES ARE PAID.

23 (C) THE COMMISSIONER SHALL ISSUE A LICENSE TO ANY APPLICANT THAT
24 MEETS THE REQUIREMENTS OF THIS SUBTITLE.

25 (D) (1) IF AN APPLICANT DOES NOT MEET THE REQUIREMENTS OF THIS
26 SUBTITLE, THE COMMISSIONER:

27 (I) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS
28 SUBTITLE, SHALL DENY THE APPLICATION;

29 (II) SHALL NOTIFY THE APPLICANT IMMEDIATELY OF THE DENIAL;

30 (III) SHALL REFUND THE LICENSE FEE; AND

31 (IV) SHALL KEEP THE INVESTIGATION FEE.

32 (2) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN
33 APPLICATION, THE COMMISSIONER SHALL STATE THE REASONS FOR THE DENIAL IN
34 WRITING AND MAIL THEM TO THE APPLICANT AT THE ADDRESS LISTED IN THE
35 APPLICATION.

36 12-911.

37 (A) THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

1 (1) THE NAME OF THE LICENSEE;

2 (2) THE ADDRESS AT WHICH THE BUSINESS IS TO BE CONDUCTED; AND

3 (3) THE DEBT MANAGEMENT SERVICES LICENSE NUMBER OF THE
4 LICENSEE.

5 (B) A LICENSE AUTHORIZES THE LICENSEE TO PROVIDE DEBT MANAGEMENT
6 SERVICES.

7 (C) A LICENSE MAY NOT BE TRANSFERRED, ASSIGNED, OR PLEDGED.

8 (D) (1) IF THE LICENSEE HAS AN OFFICE IN THE STATE, THE LICENSEE
9 SHALL PROMINENTLY DISPLAY THE LICENSE IN A LOCATION THAT IS OPEN TO THE
10 PUBLIC AND AT WHICH THE LICENSEE ENGAGES IN THE BUSINESS OF PROVIDING
11 DEBT MANAGEMENT SERVICES.

12 (2) IF THE LICENSEE DOES NOT MAINTAIN AN OFFICE IN THE STATE,
13 THE LICENSEE SHALL MAINTAIN THE LICENSE IN THE LICENSEE'S HEADQUARTERS.

14 (E) A LICENSEE THAT OFFERS OR PROVIDES DEBT MANAGEMENT SERVICES
15 THROUGH THE INTERNET SHALL INCLUDE THE FOLLOWING NOTICE ON ITS
16 WEBSITE:

17 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
18 MARYLAND WILL ACCEPT ANY QUESTIONS AND COMPLAINTS FROM MARYLAND
19 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
20 SERVICES PROVIDER) AT (ADDRESS OF COMMISSIONER), PHONE (TOLL-FREE
21 NUMBER OF THE COMMISSIONER)".

22 12-912.

23 (A) A LICENSE ISSUED UNDER THIS SUBTITLE EXPIRES ON DECEMBER 31 OF
24 EACH ODD-NUMBERED YEAR UNLESS IT IS RENEWED FOR A 2-YEAR TERM AS
25 PROVIDED IN SUBSECTION (B) OF THIS SECTION.

26 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE
27 MAY BE RENEWED FOR A 2-YEAR TERM IF THE LICENSEE:

28 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

29 (2) PAYS TO THE COMMISSIONER THE RENEWAL FEE ESTABLISHED
30 UNDER § 12-904 OF THIS SUBTITLE;

31 (3) FILES WITH THE COMMISSIONER A SURETY BOND RENEWAL
32 CERTIFICATE OR A NEW SURETY BOND REQUIRED UNDER § 12-914 OF THIS
33 SUBTITLE; AND

34 (4) SUBMITS TO THE COMMISSIONER A RENEWAL APPLICATION ON THE
35 FORM THAT THE COMMISSIONER REQUIRES.

1 (C) THE COMMISSIONER MAY DETERMINE THAT LICENSES ISSUED UNDER
2 THIS SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

3 12-913.

4 (A) (1) A LICENSEE MAY SURRENDER A LICENSE BY SENDING TO THE
5 COMMISSIONER A WRITTEN STATEMENT THAT THE LICENSE IS SURRENDERED.

6 (2) THE STATEMENT SHALL PROVIDE:

7 (I) THE REASON FOR THE LICENSE SURRENDER;

8 (II) FOR EACH CONSUMER ~~LOCATED IN THE STATE~~ FOR WHOM THE
9 LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES, THE FOLLOWING
10 INFORMATION:

11 1. THE NAME OF THE CONSUMER;

12 2. THE TOTAL AMOUNT OF FUNDS HELD BY THE LICENSEE
13 FOR DISTRIBUTION TO THE CONSUMER'S CREDITORS; AND

14 3. THE NAME OF EACH CREDITOR OF THE CONSUMER THAT
15 IS RECEIVING PAYMENTS FROM THE LICENSEE FOR DEBTS OWED BY THE
16 CONSUMER TO THE CREDITOR, AND THE OUTSTANDING BALANCE OWED TO EACH
17 CREDITOR.

18 (B) THE SURRENDER OF A LICENSE DOES NOT:

19 (1) AFFECT ANY ADMINISTRATIVE, CIVIL, OR CRIMINAL LIABILITY OF
20 THE LICENSEE FOR ACTS COMMITTED BEFORE THE LICENSE IS SURRENDERED;

21 (2) AFFECT THE SURETY BOND REQUIRED UNDER § 12-914 OF THIS
22 SUBTITLE; OR

23 (3) ENTITLE THE LICENSEE TO THE RETURN OF ANY FEE PAID TO THE
24 COMMISSIONER UNDER § 12-904 OF THIS SUBTITLE.

25 12-914.

26 (A) WITH THE APPLICATION FOR A NEW OR RENEWAL LICENSE, THE
27 APPLICANT OR LICENSEE SHALL FILE A SURETY BOND OR BOND RENEWAL
28 CERTIFICATE WITH THE COMMISSIONER AS PROVIDED IN THIS SECTION.

29 (B) (1) A SURETY BOND FILED UNDER THIS SECTION SHALL RUN TO THE
30 STATE FOR THE BENEFIT OF ANY ~~INDIVIDUAL WHO RESIDES IN THE STATE AND~~
31 CONSUMER WHO HAS BEEN IS INJURED BY A VIOLATION OF THIS SUBTITLE OR A
32 REGULATION ADOPTED UNDER THIS SUBTITLE COMMITTED BY A LICENSEE.

33 (2) ~~THE SURETY BOND SHALL PROVIDE THAT, IF THE LICENSEE FAILS~~
34 ~~TO DISTRIBUTE TO THE CREDITORS OF A CONSUMER THE AMOUNTS REQUIRED~~
35 ~~UNDER THE DEBT MANAGEMENT SERVICES AGREEMENT, THE COMMISSIONER~~

1 ~~SHALL HAVE, IN ADDITION TO ALL OTHER LEGAL REMEDIES, A RIGHT OF ACTION IN~~
2 ~~THE NAME OF THE CONSUMER TO RECOVER LOSSES SUSTAINED BY THE CONSUMER,~~
3 ~~NOT EXCEEDING THE FACE AMOUNT OF THE SURETY BOND, WITHOUT THE~~
4 ~~NECESSITY OF JOINING THE CONSUMER IN THE ACTION.~~

5 ~~(3)~~ (2) THE SURETY BOND SHALL BE:

6 (I) IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN
7 ~~\$1,000,000~~ \$500,000, AS SET BY THE COMMISSIONER;

8 (II) ISSUED BY A BONDING, SURETY, OR INSURANCE COMPANY
9 THAT IS AUTHORIZED TO DO BUSINESS IN THE STATE; AND

10 (III) CONDITIONED SO THAT THE LICENSEE SHALL COMPLY WITH
11 ALL STATE AND FEDERAL LAWS AND REGULATIONS GOVERNING THE BUSINESS OF
12 PROVIDING DEBT MANAGEMENT SERVICES.

13 ~~(4)~~ (3) THE LIABILITY OF A SURETY:

14 (I) IS NOT AFFECTED BY THE INSOLVENCY OR BANKRUPTCY OF
15 THE LICENSEE OR BY ANY MISREPRESENTATION, BREACH OF WARRANTY, FAILURE
16 TO PAY A PREMIUM, OR OTHER ACT OR OMISSION OF THE LICENSEE; AND

17 (II) CONTINUES AS TO ALL TRANSACTIONS OF THE LICENSEE FOR
18 NO LONGER THAN 2 YEARS AFTER THE LICENSEE CEASES, FOR ANY REASON, TO BE
19 LICENSED.

20 ~~(5)~~ (4) THE COMMISSIONER MAY ALLOW THE AMOUNT OF THE
21 SURETY BOND TO BE REDUCED IF THE AMOUNT OF THE LICENSEE'S OUTSTANDING
22 DEBT MANAGEMENT SERVICES LIABILITIES IN THE STATE IS REDUCED.

23 ~~(6)~~ (5) IN SETTING THE AMOUNT OF THE SURETY BOND, THE
24 COMMISSIONER SHALL CONSIDER:

25 (I) THE FINANCIAL CONDITION AND BUSINESS EXPERIENCE OF
26 THE APPLICANT OR LICENSEE AND THE AGENT OF THE APPLICANT OR LICENSEE;

27 (II) FOR AN APPLICANT, THE PROJECTED MONTHLY AND ANNUAL
28 VOLUME OF DEBT MANAGEMENT SERVICES TO BE PROVIDED IN THE STATE;

29 (III) FOR A LICENSEE, THE AVERAGE MONTHLY AND ANNUAL
30 VOLUME OF DEBT MANAGEMENT SERVICES PROVIDED IN THE STATE DURING THE
31 PREVIOUS 12-MONTH PERIOD;

32 (IV) THE POTENTIAL LOSS TO CONSUMERS WHO REMIT FUNDS TO
33 THE APPLICANT OR LICENSEE IF THE APPLICANT OR LICENSEE BECOMES
34 FINANCIALLY IMPAIRED; AND

35 (V) ANY OTHER FACTOR THE COMMISSIONER CONSIDERS
36 APPROPRIATE.

1 (C) IF THE PRINCIPAL AMOUNT OF A SURETY BOND IS REDUCED BY PAYMENT
2 OF A CLAIM OR JUDGMENT, THE LICENSEE SHALL FILE WITH THE COMMISSIONER
3 ANY NEW OR ADDITIONAL SURETY BOND IN THE AMOUNT THAT THE COMMISSIONER
4 SETS.

5 (D) THE COMMISSIONER MAY WAIVE THE SURETY BOND REQUIREMENT
6 UNDER THIS SECTION IF THE COMMISSIONER DETERMINES THAT THE VOLUME OF
7 DEBT MANAGEMENT SERVICES PROVIDED BY THE APPLICANT OR LICENSEE DOES
8 NOT WARRANT THE NEED FOR A SURETY BOND.

9 (E) A PENALTY IMPOSED UNDER § 12-928 OR § 12-929 OF THIS SUBTITLE MAY
10 BE PAID AND COLLECTED FROM THE PROCEEDS OF A SURETY BOND REQUIRED
11 UNDER THIS SECTION.

12 12-915.

13 ~~(A) A LICENSEE SHALL GIVE THE COMMISSIONER WRITTEN NOTICE OF ANY
14 CHANGE IN THE INFORMATION REQUIRED TO BE INCLUDED IN THE LICENSEE'S
15 APPLICATION UNDER § 12-908(B)(1) AND (2) OF THIS SUBTITLE WITHIN 10 DAYS AFTER
16 THE CHANGE IS EFFECTIVE.~~

17 ~~(B) UNLESS APPROVED BY THE COMMISSIONER, A LICENSEE MAY NOT
18 CHANGE AN OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE LICENSEE, OR AN
19 AGENT WHO IS ACTING ON BEHALF OF THE LICENSEE TO MANAGE A TRUST
20 ACCOUNT, LISTED ON THE LICENSEE'S APPLICATION UNDER § 12-908(B)(3) AND (6) OF
21 THIS SUBTITLE.~~

22 ~~(C) (1) TO REQUEST APPROVAL OF A PROPOSED CHANGE DESCRIBED IN
23 SUBSECTION (B) OF THIS SECTION, THE LICENSEE SHALL NOTIFY THE
24 COMMISSIONER IN WRITING OF THE PROPOSED CHANGE AND SUBMIT ANY
25 INFORMATION THAT THE COMMISSIONER REQUIRES.~~

26 ~~(2) FOR A PROPOSED CHANGE IN OWNER OR AGENT ACTING ON BEHALF
27 OF THE LICENSEE TO MANAGE A TRUST ACCOUNT, THE COMMISSIONER MAY
28 DETERMINE THAT THE FILING OF A NEW APPLICATION FOR THE ISSUANCE OF A
29 LICENSE IS WARRANTED.~~

30 ~~(3) UNLESS THE COMMISSIONER NOTIFIES THE LICENSEE THAT A
31 DIFFERENT TIME PERIOD IS NECESSARY, THE COMMISSIONER SHALL APPROVE OR
32 DENY A REQUEST FOR A CHANGE DESCRIBED IN SUBSECTION (B) OF THIS SECTION
33 WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER RECEIVES ALL INFORMATION
34 REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

35 (A) (1) A LICENSEE MAY NOT CHANGE A BUSINESS LOCATION FOR WHICH A
36 LICENSE IS ISSUED UNLESS THE LICENSEE:

37 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED
38 CHANGE;

1 (II) PROVIDES WITH THE NOTICE EVIDENCE THAT, AFTER THE
2 CHANGE DESCRIBED IN THE NOTICE, THE LICENSEE WILL CONTINUE TO SATISFY
3 THE SURETY BOND REQUIREMENT UNDER § 12-914 OF THIS SUBTITLE; AND

4 (III) RECEIVES THE WRITTEN APPROVAL OF THE COMMISSIONER.

5 (2) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A
6 CHANGE IN A BUSINESS LOCATION OF A LICENSEE, THE COMMISSIONER SHALL
7 APPROVE OR DENY THE REQUEST.

8 (3) IF THE COMMISSIONER FAILS TO APPROVE OR DENY A REQUEST FOR
9 APPROVAL WITHIN THE 60-DAY PERIOD UNDER PARAGRAPH (2) OF THIS
10 SUBSECTION, THE REQUEST IS DEEMED TO BE APPROVED.

11 (B) (1) IN THIS SUBSECTION, "CONTROL" MEANS THE DIRECT OR INDIRECT
12 POSSESSION OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE
13 MANAGEMENT AND POLICIES OF A LICENSEE, WHETHER THROUGH OWNERSHIP, BY
14 CONTRACT, OR OTHERWISE.

15 (2) A LICENSEE MAY NOT UNDERGO A CHANGE IN CONTROL UNLESS
16 THE LICENSEE:

17 (I) NOTIFIES THE COMMISSIONER IN WRITING OF THE PROPOSED
18 CHANGE;

19 (II) MAKES A WRITTEN REQUEST THAT THE COMMISSIONER
20 APPROVE THE PROPOSED CHANGE;

21 (III) PROVIDES ANY INFORMATION THE COMMISSIONER MAY
22 REQUIRE UNDER PARAGRAPH (3) OF THIS SUBSECTION; AND

23 (IV) RECEIVES THE WRITTEN APPROVAL OF THE COMMISSIONER.

24 (3) WITHIN 60 DAYS AFTER RECEIVING A REQUEST FOR APPROVAL OF A
25 PROPOSED CHANGE IN CONTROL, THE COMMISSIONER MAY REQUIRE THE LICENSEE
26 TO PROVIDE ANY INFORMATION THAT THE COMMISSIONER CONSIDERS NECESSARY
27 TO DETERMINE WHETHER A NEW APPLICATION FOR A LICENSE IS REQUIRED
28 BECAUSE OF THE PROPOSED CHANGE IN CONTROL.

29 (4) THE COMMISSIONER SHALL APPROVE OR DENY A REQUEST FOR
30 APPROVAL OF A PROPOSED CHANGE IN CONTROL:

31 (I) WITHIN 60 DAYS AFTER THE DATE THE COMMISSIONER
32 RECEIVES THE REQUEST; OR

33 (II) IF THE COMMISSIONER REQUIRES THE LICENSEE TO PROVIDE
34 INFORMATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, WITHIN 60 DAYS AFTER
35 THE DATE THAT THE COMMISSIONER RECEIVES THE REQUIRED INFORMATION.

1 (5) IF THE COMMISSIONER FAILS TO APPROVE OR DENY A REQUEST FOR
2 APPROVAL OF A PROPOSED CHANGE IN CONTROL WITHIN THE APPLICABLE PERIOD
3 UNDER PARAGRAPH (4) OF THIS SUBSECTION, THE REQUEST IS DEEMED TO BE
4 APPROVED.

5 (C) IN ADDITION TO ANY OTHER SANCTION THAT THE COMMISSIONER MAY
6 IMPOSE UNDER THIS SUBTITLE, A LICENSEE WHO FAILS TO PROVIDE TIMELY NOTICE
7 OF A PROPOSED CHANGE UNDER SUBSECTION (A)(1) OR (B)(2) OF THIS SECTION
8 SHALL:

9 (1) PAY TO THE COMMISSIONER A SURCHARGE OF \$500 FOR EACH
10 FAILURE; AND

11 (2) IF THE COMMISSIONER SO REQUIRES, FILE WITH THE
12 COMMISSIONER AN APPLICATION FOR A NEW LICENSE, TOGETHER WITH ALL
13 APPLICABLE APPLICATION AND INVESTIGATION FEES.

14 12-916.

15 (A) A LICENSEE MAY NOT PERFORM DEBT MANAGEMENT SERVICES FOR A
16 CONSUMER UNLESS:

17 (1) THE LICENSEE ~~HAS PROVIDED~~ PROVIDES THE CONSUMER WITH A
18 CONSUMER EDUCATION PROGRAM;

19 (2) THE LICENSEE, THROUGH A DEBT MANAGEMENT SERVICES
20 COUNSELOR CERTIFIED BY AN INDEPENDENT ORGANIZATION, HAS:

21 (I) PREPARED A FINANCIAL ANALYSIS OF AND AN INITIAL BUDGET
22 PLAN FOR THE CONSUMER'S DEBT OBLIGATIONS; AND

23 (II) PROVIDED A COPY OF THE FINANCIAL ANALYSIS AND THE
24 INITIAL BUDGET PLAN TO THE CONSUMER; AND

25 (III) PROVIDED TO THE CONSUMER, FOR ALL CREDITORS
26 IDENTIFIED BY THE CONSUMER, A LIST OF:

27 1. THE CREDITORS THAT WILL PARTICIPATE IN THE
28 MANAGEMENT OF THE CONSUMER'S DEBT UNDER THE DEBT MANAGEMENT
29 SERVICES AGREEMENT; AND

30 2. THE CREDITORS THAT WILL NOT PARTICIPATE IN THE
31 MANAGEMENT OF THE CONSUMER'S DEBT UNDER THE DEBT MANAGEMENT
32 SERVICES AGREEMENT;

33 (3) THE LICENSEE AND THE CONSUMER HAVE EXECUTED A DEBT
34 MANAGEMENT SERVICES AGREEMENT THAT DESCRIBES THE DEBT MANAGEMENT
35 SERVICES TO BE PROVIDED BY THE LICENSEE TO THE CONSUMER;

1 (4) THE LICENSEE HAS ESTABLISHED AN AGREEMENT, WITH EACH
 2 CREDITOR OF THE CONSUMER THAT IS LISTED AS A PARTICIPATING CREDITOR IN
 3 THE CONSUMER'S FINAL DEBT MANAGEMENT SERVICES AGREEMENT, FOR THE
 4 PAYMENT OF THE CONSUMER'S DEBTS OWED TO THE CREDITOR AS PROVIDED IN
 5 THE CONSUMER'S FINAL DEBT MANAGEMENT SERVICES AGREEMENT; AND

6 (5) A COPY OF THE ~~COMPLETED~~ FINAL DEBT MANAGEMENT SERVICES
 7 AGREEMENT HAS BEEN PROVIDED TO THE CONSUMER.

8 (B) EACH FINAL DEBT MANAGEMENT SERVICES AGREEMENT SHALL:

9 (1) BE SIGNED AND DATED BY THE LICENSEE AND THE CONSUMER; AND

10 (2) INCLUDE, IN AT LEAST 12 POINT TYPE:

11 (I) THE NAME, ADDRESS, AND PHONE NUMBER OF THE
 12 CONSUMER;

13 (II) THE NAME, ADDRESS, PHONE NUMBER, AND LICENSE NUMBER
 14 OF THE LICENSEE;

15 (III) A DESCRIPTION OF THE DEBT MANAGEMENT SERVICES TO BE
 16 PROVIDED TO THE CONSUMER AND ANY FEES TO BE CHARGED TO THE CONSUMER
 17 FOR THE DEBT MANAGEMENT SERVICES;

18 (IV) A DISCLOSURE OF THE EXISTENCE OF THE SURETY BOND
 19 REQUIRED UNDER § 12-914 OF THIS SUBTITLE;

20 (V) THE NAME AND ADDRESS OF THE FINANCIAL INSTITUTION IN
 21 WHICH FUNDS, PAID BY THE CONSUMER TO THE LICENSEE FOR DISBURSEMENT TO
 22 THE CONSUMER'S CREDITORS, WILL BE HELD;

23 (VI) A NOTICE OF THE RIGHT OF A PARTY TO THE DEBT
 24 MANAGEMENT SERVICES AGREEMENT TO CANCEL THE DEBT MANAGEMENT
 25 SERVICES AGREEMENT BY GIVING WRITTEN NOTICE OF CANCELLATION TO THE
 26 OTHER PARTY;

27 (VII) A SCHEDULE OF PAYMENTS THAT THE CONSUMER MUST MAKE
 28 TO THE DEBT MANAGEMENT SERVICES PROVIDER, ~~FOR DISBURSEMENT TO THE~~
 29 ~~CONSUMER'S CREDITORS~~; INCLUDING:

30 1. THE AMOUNT AND DATE OF EACH PAYMENT AND THE
 31 DATE ON WHICH EACH PAYMENT IS DUE; AND

32 2. AN ITEMIZATION OF THE MAINTENANCE FEES THAT WILL
 33 BE RETAINED BY THE DEBT MANAGEMENT SERVICES PROVIDER, AND THE AMOUNT
 34 OF MONEY THAT WILL BE PAID TO THE CONSUMER'S CREDITORS, FROM EACH
 35 PAYMENT THE CONSUMER MAKES TO THE DEBT MANAGEMENT SERVICES PROVIDER;

36 (VIII) ~~+~~ A LIST OF:

1 1. A. EACH PARTICIPATING CREDITOR OF THE CONSUMER
2 TO WHICH PAYMENTS WILL BE MADE UNDER THE DEBT MANAGEMENT SERVICES
3 AGREEMENT;

4 ~~2.~~ B. THE AMOUNT OWED TO EACH CREDITOR; AND

5 ~~3.~~ C. A SCHEDULE OF PAYMENTS THAT THE DEBT
6 MANAGEMENT SERVICES PROVIDER ~~MUST~~ WILL MAKE TO EACH PARTICIPATING
7 CREDITOR FROM THE CONSUMER'S PAYMENTS, INCLUDING THE AMOUNT ~~AND DATE~~
8 OF EACH PAYMENT AND THE DATE ON WHICH EACH PAYMENT WILL BE MADE; AND

9 2. EACH CREDITOR THAT WILL NOT PARTICIPATE IN THE
10 MANAGEMENT OF THE CONSUMER'S DEBT UNDER THE DEBT MANAGEMENT
11 SERVICES AGREEMENT;

12 (IX) A DISCLOSURE THAT THE LICENSEE ALSO MAY RECEIVE
13 COMPENSATION FROM THE CONSUMER'S CREDITORS FOR PROVIDING DEBT
14 MANAGEMENT SERVICES TO THE CONSUMER;

15 (X) A DISCLOSURE THAT THE LICENSEE MAY NOT REQUIRE A
16 VOLUNTARY CONTRIBUTION FROM A CONSUMER FOR ANY SERVICE PROVIDED BY
17 THE LICENSEE TO THE CONSUMER;

18 ~~(X)~~ (XI) A DISCLOSURE THAT, BY EXECUTING THE DEBT
19 MANAGEMENT SERVICES AGREEMENT, THE CONSUMER AUTHORIZES ANY
20 FINANCIAL INSTITUTION IN WHICH THE LICENSEE HAS ESTABLISHED A TRUST
21 ACCOUNT FOR DEPOSIT OF THE CONSUMER'S FUNDS TO DISCLOSE TO THE
22 COMMISSIONER ANY FINANCIAL RECORDS RELATING TO THE TRUST ACCOUNT
23 DURING THE COURSE OF ANY INVESTIGATION OR EXAMINATION OF THE LICENSEE
24 BY THE COMMISSIONER;

25 ~~(XI)~~ (XII) A DISCLOSURE THAT EXECUTION OF A DEBT
26 MANAGEMENT SERVICES AGREEMENT MAY IMPACT THE CONSUMER'S CREDIT
27 RATING AND CREDIT SCORES; AND

28 ~~(XII)~~ (XIII) THE FOLLOWING NOTICE:

29 "THE COMMISSIONER OF FINANCIAL REGULATION FOR THE STATE OF
30 MARYLAND WILL ACCEPT QUESTIONS AND COMPLAINTS FROM MARYLAND
31 RESIDENTS REGARDING (NAME AND LICENSE NUMBER OF THE DEBT MANAGEMENT
32 SERVICE PROVIDER) AT (ADDRESS OF THE COMMISSIONER) PHONE (TOLL-FREE
33 NUMBER OF THE COMMISSIONER). DO NOT SIGN THIS AGREEMENT BEFORE YOU
34 READ IT. YOU MUST BE GIVEN A COPY OF THIS AGREEMENT."

35 (C) A DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN A CONSUMER
36 AND A PERSON THAT IS NOT A LICENSEE UNDER THIS SUBTITLE SHALL BE NULL AND
37 VOID, AND ALL FEES PAID TO THE PERSON UNDER THE DEBT MANAGEMENT
38 SERVICES AGREEMENT SHALL BE RECOVERABLE BY THE CONSUMER, TOGETHER
39 WITH REASONABLE ATTORNEY'S FEES.

1 12-917.

2 (A) WITHIN 2 BUSINESS DAYS AFTER RECEIPT, A LICENSEE SHALL DEPOSIT,
3 IN A TRUST ACCOUNT ESTABLISHED FOR THE BENEFIT OF ~~THE CONSUMER~~
4 CONSUMERS, ANY FUNDS PAID TO THE LICENSEE BY OR ON BEHALF OF A CONSUMER
5 FOR DISBURSEMENT TO THE CONSUMER'S CREDITORS.

6 (B) A LICENSEE SHALL:

7 (1) MAINTAIN SEPARATE RECORDS OF ACCOUNT FOR EACH CONSUMER
8 TO WHOM THE LICENSEE IS PROVIDING DEBT MANAGEMENT SERVICES;

9 (2) DISBURSE ANY FUNDS PAID BY OR ON BEHALF OF A CONSUMER TO
10 THE CONSUMER'S CREDITORS WITHIN 5 BUSINESS DAYS AFTER RECEIPT OF THE
11 FUNDS; AND

12 (3) (I) CORRECT ANY MISDIRECTED PAYMENTS RESULTING FROM AN
13 ERROR BY THE LICENSEE; AND

14 (II) REIMBURSE THE CONSUMER FOR ANY ACTUAL FEES OR OTHER
15 CHARGES IMPOSED BY A CREDITOR AS A RESULT OF THE MISDIRECTION.

16 (C) A LICENSEE MAY NOT COMMINGLE ANY TRUST ACCOUNT ESTABLISHED
17 FOR THE BENEFIT OF CONSUMERS WITH ANY OPERATING ACCOUNTS OF THE
18 LICENSEE.

19 (D) (1) AN AGENT THAT ACTS ON BEHALF OF A LICENSEE TO MANAGE A
20 TRUST ACCOUNT REQUIRED UNDER THIS SECTION SHALL MAINTAIN A SURETY BOND
21 IN AN AMOUNT NOT LESS THAN \$10,000 AND NOT MORE THAN \$500,000, AS SET BY THE
22 COMMISSIONER.

23 (2) THE SURETY BOND SHALL RUN TO THE STATE FOR THE BENEFIT OF
24 ANY CONSUMER WHO IS INJURED BY AN ACT OR OMISSION OF THE AGENT RELATING
25 TO THE MANAGEMENT OF A TRUST ACCOUNT REQUIRED UNDER THIS SECTION.

26 (3) THE LICENSEE SHALL FILE EVIDENCE OF THE SURETY BOND WITH
27 THE COMMISSIONER WITH THE LICENSEE'S APPLICATION FOR A NEW OR RENEWAL
28 LICENSE.

29 12-918.

30 (A) A LICENSEE MAY NOT IMPOSE ANY FEES OR OTHER CHARGES ON A
31 CONSUMER, OR RECEIVE ANY FUNDS OR OTHER PAYMENTS FROM A CONSUMER OR
32 ANOTHER PERSON ON BEHALF OF A CONSUMER:

33 (1) UNTIL AFTER THE LICENSEE AND CONSUMER HAVE EXECUTED A
34 FINAL DEBT MANAGEMENT SERVICES AGREEMENT; AND

35 (2) ONLY AS ALLOWED UNDER THIS SECTION.

1 (B) (1) A LICENSEE MAY CHARGE A ~~SET-UP~~ CONSULTATION FEE NOT
2 EXCEEDING \$50.

3 (2) THE COST OF A CREDIT REPORT ON A CONSUMER SHALL BE PAID
4 FROM THE ~~SET-UP~~ CONSULTATION FEE PAID BY THE CONSUMER.

5 (C) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A LICENSEE MAY
6 CHARGE A MONTHLY MAINTENANCE FEE NOT EXCEEDING \$5 FOR EACH CREDITOR
7 OF A CONSUMER THAT IS LISTED IN THE DEBT MANAGEMENT SERVICES AGREEMENT
8 BETWEEN THE LICENSEE AND THE CONSUMER.

9 (2) THE TOTAL FEES CHARGED TO A CONSUMER UNDER PARAGRAPH (1)
10 OF THIS SUBSECTION MAY NOT EXCEED ~~\$50~~ \$30 PER MONTH.

11 (D) A LICENSEE MAY COLLECT FROM OR ON BEHALF OF A CONSUMER THE
12 FUNDS THE CONSUMER HAS AGREED TO PAY TO THE LICENSEE UNDER THE DEBT
13 MANAGEMENT SERVICES AGREEMENT.

14 (E) A LICENSEE MAY NOT CHARGE A FEE TO:

15 ~~(1) COUNSEL A CONSUMER ABOUT DEBT MANAGEMENT;~~

16 ~~(2) PROVIDE A CONSUMER WITH A CONSUMER EDUCATION PROGRAM;~~

17 ~~OR~~

18 ~~(3) CANCEL A DEBT MANAGEMENT SERVICES AGREEMENT.~~

19 ~~(F) (1) A LICENSEE MAY NOT REQUIRE A VOLUNTARY CONTRIBUTION FROM~~
20 ~~A CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER.~~

21 ~~(2) A LICENSEE MAY ACCEPT A VOLUNTARY CONTRIBUTION FROM A~~
22 ~~CONSUMER FOR ANY SERVICE PROVIDED BY THE LICENSEE TO THE CONSUMER IF~~
23 ~~THE AGGREGATE AMOUNT OF THE VOLUNTARY CONTRIBUTION AND ANY OTHER~~
24 ~~FEES RECEIVED BY THE LICENSEE FROM THE CONSUMER DOES NOT EXCEED THE~~
25 ~~TOTAL AMOUNT THE LICENSEE IS AUTHORIZED TO CHARGE THE CONSUMER UNDER~~
26 ~~SUBSECTIONS (B) AND (C) OF THIS SECTION.~~

27 ~~(F)~~ ~~(G)~~ IF A LICENSEE IMPOSES ANY FEE OR OTHER CHARGE OR RECEIVES
28 ANY FUNDS OR OTHER PAYMENTS NOT AUTHORIZED UNDER THIS SECTION, EXCEPT
29 AS A RESULT OF AN ACCIDENTAL AND BONA FIDE ERROR:

30 (1) THE DEBT MANAGEMENT SERVICES AGREEMENT SHALL BE VOID;
31 AND

32 (2) THE LICENSEE SHALL RETURN THE AMOUNT OF THE
33 UNAUTHORIZED FEES, CHARGES, FUNDS, OR PAYMENTS TO THE CONSUMER.

34 ~~(H) (1) IN ADDITION TO ANY OTHER RIGHT OF RESCISSION CONTAINED IN~~
35 ~~THE DEBT MANAGEMENT SERVICES AGREEMENT, A CONSUMER MAY RESCIND A~~

1 DEBT MANAGEMENT SERVICES AGREEMENT WITHIN 3 DAYS AFTER THE FINAL DEBT
2 MANAGEMENT SERVICES AGREEMENT IS EXECUTED.

3 (2) A CONSUMER WHO RESCINDS A DEBT MANAGEMENT SERVICES
4 AGREEMENT UNDER THIS SUBSECTION IS ENTITLED TO A REFUND OF ALL
5 PAYMENTS MADE UNDER THE AGREEMENT, INCLUDING ANY VOLUNTARY
6 CONTRIBUTION, LESS ANY PORTION OF THE CONSULTATION FEE THAT THE
7 LICENSEE HAS EXPENDED IN PROVIDING SERVICES TO THE CONSUMER.

8 12-919.

9 (A) A LICENSEE SHALL PROVIDE TO EACH CONSUMER WITH WHOM THE
10 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT A WRITTEN
11 ACCOUNTING OF:

12 (1) THE AMOUNT OF FUNDS RECEIVED FROM THE CONSUMER FOR
13 PAYMENT TO THE CONSUMER'S CREDITORS SINCE THE LAST REPORT; AND

14 (2) THE AMOUNTS AND DATES OF DISBURSEMENTS MADE TO EACH
15 CREDITOR OF THE CONSUMER SINCE THE LAST REPORT.

16 (B) A LICENSEE SHALL PROVIDE THE ACCOUNTING REQUIRED UNDER
17 SUBSECTION (A) OF THIS SECTION:

18 (1) AT LEAST ONCE DURING EACH CALENDAR QUARTER; AND

19 (2) ON CANCELLATION OR TERMINATION OF THE DEBT MANAGEMENT
20 SERVICES AGREEMENT.

21 12-920.

22 (A) A LICENSEE MAY NOT:

23 (1) PURCHASE ANY DEBT OR OBLIGATION OF A CONSUMER;

24 (2) LEND MONEY OR PROVIDE CREDIT TO A CONSUMER;

25 (3) OBTAIN A MORTGAGE OR OTHER SECURITY INTEREST IN PROPERTY
26 OWNED BY A CONSUMER;

27 (4) OPERATE AS A COLLECTION AGENCY, AS DEFINED IN § 7-101 OF THE
28 BUSINESS REGULATION ARTICLE;

29 (5) STRUCTURE A DEBT MANAGEMENT SERVICES AGREEMENT IN A
30 MANNER THAT WOULD RESULT IN A NEGATIVE AMORTIZATION OF ANY OF THE
31 CONSUMER'S DEBTS;

32 (6) ENGAGE IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING
33 ABOUT THE TERMS AND CONDITIONS OF ANY SERVICE OR ASSISTANCE OFFERED TO
34 CONSUMERS MAKE ANY FALSE, MISLEADING, OR DECEPTIVE REPRESENTATIONS OR

1 OMISSIONS OF INFORMATION IN CONNECTION WITH THE OFFER, SALE, OR
2 PERFORMANCE OF ANY SERVICE;

3 (7) OFFER, PAY, OR GIVE A SUBSTANTIAL GIFT, BONUS, PREMIUM,
4 REWARD, OR OTHER COMPENSATION TO A PERSON FOR REFERRING A PROSPECTIVE
5 CUSTOMER TO THE LICENSEE;

6 (8) OFFER AN INCENTIVE, INCLUDING A GIFT, BONUS, PREMIUM,
7 REWARD, OR OTHER COMPENSATION, TO A CONSUMER FOR EXECUTING A DEBT
8 MANAGEMENT SERVICES AGREEMENT WITH THE LICENSEE;

9 (9) CHARGE FOR OR PROVIDE CREDIT INSURANCE; OR

10 (10) COMPROMISE ANY DEBTS OF A CONSUMER UNLESS THE LICENSEE
11 HAS OBTAINED THE PRIOR WRITTEN APPROVAL OF THE CONSUMER, AND THE
12 COMPROMISE ~~INURES SOLELY TO THE BENEFIT OF~~ BENEFITS THE CONSUMER.

13 (B) (1) NOTWITHSTANDING ANY OTHER PROVISION OF STATE LAW, A
14 LICENSEE MAY NOT, DIRECTLY OR INDIRECTLY, COLLECT ANY FEE FOR REFERRING,
15 ADVISING, PROCURING, ARRANGING, OR ASSISTING A CONSUMER IN OBTAINING ANY
16 EXTENSION OF CREDIT OR OTHER CONSUMER SERVICE FROM A LENDER OR SERVICE
17 PROVIDER IF THE LICENSEE, OR ANY OWNER, OFFICER, DIRECTOR, PRINCIPAL, OR
18 EMPLOYEE OF THE LICENSEE, IS AN OWNER, PARTNER, DIRECTOR, OFFICER, OR
19 EMPLOYEE OF THE LENDER OR SERVICE PROVIDER.

20 (2) THIS SUBSECTION DOES NOT PROHIBIT A LICENSEE FROM
21 REFERRING, ADVISING, PROCURING, ARRANGING, OR ASSISTING A CONSUMER IN
22 OBTAINING ANY EXTENSION OF CREDIT OR OTHER CONSUMER SERVICE FROM A
23 LENDER OR SERVICE PROVIDER OF WHICH THE LICENSEE, OR ANY OWNER, OFFICER,
24 DIRECTOR, PRINCIPAL, OR EMPLOYEE OF THE LICENSEE, IS AN OWNER, PARTNER,
25 DIRECTOR, OFFICER, OR EMPLOYEE, IF:

26 (I) THE LICENSEE DOES NOT DIRECTLY OR INDIRECTLY COLLECT
27 ANY FEE; AND

28 (II) THE CONSUMER IS PROVIDED WITH A WRITTEN DISCLOSURE
29 OF THE RELATIONSHIP.

30 12-921.

31 (A) (1) ON OR BEFORE APRIL 30 OF EACH YEAR, A LICENSEE SHALL REPORT
32 TO THE COMMISSIONER ON THE DEBT MANAGEMENT SERVICES BUSINESS OF THE
33 LICENSEE CONDUCTED DURING THE PRECEDING CALENDAR YEAR.

34 (2) THE ANNUAL REPORT SHALL BE ON THE FORM THAT THE
35 COMMISSIONER REQUIRES.

36 (3) THE REPORT SHALL INCLUDE:

1 (I) AN AUDITED FINANCIAL STATEMENT THAT IS PREPARED IN
2 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND
3 INCLUDES A BALANCE SHEET, INCOME STATEMENT, STATEMENT OF CHANGES IN
4 FUND BALANCES, AND STATEMENT OF CASH FLOW;

5 (II) AN ALPHABETICAL LIST OF ALL DEBT MANAGEMENT
6 COUNSELORS ~~EMPLOYED BY~~ WHO PROVIDED SERVICES FOR THE LICENSEE DURING
7 THE PREVIOUS CALENDAR YEAR;

8 (III) THE NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR WHOM THE
9 LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT MANAGEMENT
10 SERVICES AGREEMENT DURING THE PRECEDING CALENDAR YEAR;

11 (IV) THE NUMBER OF CONSUMERS ~~IN THE STATE~~ WHO SIGNED NEW
12 DEBT MANAGEMENT SERVICES AGREEMENTS WITH THE LICENSEE DURING THE
13 PRECEDING CALENDAR YEAR;

14 (V) THE HIGHEST NUMBER OF CONSUMERS ~~IN THE STATE~~ FOR
15 WHOM THE LICENSEE PROVIDED DEBT MANAGEMENT SERVICES UNDER A DEBT
16 MANAGEMENT SERVICES AGREEMENT DURING ANY MONTH IN THE PRECEDING
17 CALENDAR YEAR; AND

18 (VI) THE AMOUNTS PAID BY CONSUMERS ~~IN THE STATE~~ TO THE
19 LICENSEE, BOTH IN TOTAL AND FOR EACH MONTH, DURING THE PRECEDING
20 CALENDAR YEAR, BROKEN DOWN BY:

- 21 1. PAYMENTS TO BE DISBURSED TO CREDITORS; AND
22 2. PAYMENTS FOR THE LICENSEE'S SERVICES.

23 (B) (1) WITHIN 15 DAYS AFTER THE OCCURRENCE OF ANY OF THE
24 FOLLOWING EVENTS, A LICENSEE SHALL FILE A WRITTEN REPORT WITH THE
25 COMMISSIONER DESCRIBING THE EVENT AND ITS EXPECTED IMPACT ON THE
26 LICENSEE'S ACTIVITIES IN THE STATE:

27 (I) THE FILING FOR BANKRUPTCY OR REORGANIZATION BY THE
28 LICENSEE;

29 (II) THE INSTITUTION OF A REVOCATION OR SUSPENSION
30 PROCEEDING AGAINST THE LICENSEE BY A GOVERNMENTAL AUTHORITY THAT IS
31 RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS IN ANY
32 STATE;

33 (III) A FELONY INDICTMENT OR CONVICTION OF THE LICENSEE, OR
34 ANY OF ITS OFFICERS ~~OR~~ DIRECTORS, OR DEBT MANAGEMENT COUNSELORS, THAT
35 IS RELATED TO THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS;

36 (IV) THE COMMENCEMENT OF A CIVIL ACTION BY A CONSUMER
37 AGAINST THE LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, ~~OR~~ PRINCIPALS, OR

1 DEBT MANAGEMENT COUNSELORS, THAT IS RELATED TO THE LICENSEE'S DEBT
2 MANAGEMENT SERVICES BUSINESS; ~~AND~~

3 (V) THE FILING OF ANY MATERIAL LITIGATION AGAINST THE
4 LICENSEE, OR ITS OWNERS, OFFICERS, DIRECTORS, ~~OR~~ PRINCIPALS, OR DEBT
5 MANAGEMENT COUNSELORS, THAT IS RELATED TO THE LICENSEE'S DEBT
6 MANAGEMENT SERVICES BUSINESS; AND

7 (VI) A LIST OF ALL THIRD-PARTY VENDORS AND OTHER SERVICE
8 PROVIDERS THAT THE LICENSEE USED IN PROVIDING DEBT MANAGEMENT
9 SERVICES AT ANY TIME IN THE PRECEDING CALENDAR YEAR.

10 (2) THE WRITTEN REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
11 SUBSECTION SHALL BE SENT TO THE COMMISSIONER BY CERTIFIED MAIL, RETURN
12 RECEIPT REQUESTED, AND INCLUDE DETAILS SUFFICIENT TO IDENTIFY THE EVENT.

13 (C) THE COMMISSIONER MAY REQUIRE ANY OTHER REPORTS FROM A
14 LICENSEE THAT THE COMMISSIONER CONSIDERS NECESSARY.

15 (D) IF A LICENSEE FAILS TO MAKE ANY REPORT REQUIRED BY THIS SUBTITLE,
16 ~~THE LICENSEE SHALL PAY TO THE COMMISSIONER \$25~~ MAY REQUIRE THE LICENSEE
17 TO PAY A SURCHARGE NOT EXCEEDING \$50 FOR EACH DAY THAT THE REPORT IS
18 OVERDUE.

19 12-922.

20 (A) TO ENABLE THE COMMISSIONER TO DETERMINE COMPLIANCE WITH THIS
21 SUBTITLE, A LICENSEE SHALL MAKE AND PRESERVE THE FOLLOWING BOOKS,
22 ACCOUNTS, AND RECORDS FOR A PERIOD OF AT LEAST ~~5~~ 7 YEARS:

23 (1) A GENERAL LEDGER CONTAINING ALL ASSETS, LIABILITY, CAPITAL,
24 INCOME, AND EXPENSE ACCOUNTS;

25 (2) EACH DEBT MANAGEMENT SERVICES AGREEMENT BETWEEN THE
26 LICENSEE AND A CONSUMER;

27 (3) BOOKS AND RECORDS FOR EACH CONSUMER WITH WHOM THE
28 LICENSEE HAS A DEBT MANAGEMENT SERVICES AGREEMENT; AND

29 (4) BANK STATEMENTS AND BANK RECONCILIATION RECORDS.

30 (B) A LICENSEE MAY RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
31 REQUIRED UNDER THIS SECTION AT ANY LOCATION, PROVIDED THAT THE LICENSEE:

32 (1) NOTIFIES THE COMMISSIONER IN WRITING OF THE LOCATION OF
33 THE BOOKS, ACCOUNTS, AND RECORDS; AND

34 (2) MAKES THE BOOKS, ACCOUNTS, AND RECORDS AVAILABLE AT A
35 LOCATION IN THE STATE, AS AGREED BY THE COMMISSIONER AND THE LICENSEE,

1 WITHIN 7 DAYS AFTER A WRITTEN REQUEST FOR EXAMINATION BY THE
2 COMMISSIONER.

3 (C) A LICENSEE SHALL RETAIN THE BOOKS, ACCOUNTS, AND RECORDS
4 REQUIRED UNDER THIS SECTION IN:

5 (1) ORIGINAL FORM; OR

6 (2) PHOTOGRAPHIC, ELECTRONIC, OR OTHER SIMILAR FORM APPROVED
7 BY THE COMMISSIONER.

8 (D) IF THE COMMISSIONER FINDS THAT THE BOOKS, ACCOUNTS, AND
9 RECORDS OF THE LICENSEE ARE INSUFFICIENT TO DETERMINE COMPLIANCE WITH
10 THIS SUBTITLE, THE COMMISSIONER MAY REQUIRE THE LICENSEE TO HAVE A
11 CERTIFIED PUBLIC ACCOUNTANT AUDIT THE LICENSEE, AT THE LICENSEE'S
12 EXPENSE, FOR ANY PERIOD OF TIME THAT THE COMMISSIONER CONSIDERS
13 NECESSARY.

14 (E) (1) A LICENSEE SHALL KEEP ALL BOOKS, ACCOUNTS, AND RECORDS
15 RELATING TO A CONSUMER CONFIDENTIAL, AND MAY NOT DISCLOSE ANY
16 INFORMATION ABOUT A CONSUMER EXCEPT TO A DULY AUTHORIZED GOVERNMENT
17 OFFICIAL, THE CONSUMER, OR THE CONSUMER'S REPRESENTATIVE.

18 (2) A DULY AUTHORIZED GOVERNMENT OFFICIAL MAY DISCLOSE
19 INFORMATION OBTAINED UNDER PARAGRAPH (1) OF THIS SUBSECTION ONLY IN
20 ACCORDANCE WITH TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT ARTICLE.

21 (F) THE REQUIREMENTS OF THIS SECTION ALSO APPLY TO BOOKS,
22 ACCOUNTS, AND RECORDS IN THE POSSESSION OF A SUBSIDIARY, AFFILIATE, OR
23 OTHER PERSON THAT RELATE TO THE OPERATION OF AND SERVICES PROVIDED BY
24 THE LICENSEE'S DEBT MANAGEMENT SERVICES BUSINESS.

25 12-923.

26 (A) TO DISCOVER ANY VIOLATIONS OF THIS SUBTITLE OR TO OBTAIN ANY
27 INFORMATION REQUIRED BY THIS SUBTITLE, THE COMMISSIONER AT ANY TIME MAY
28 INVESTIGATE THE BUSINESS OF:

29 (1) A LICENSEE;

30 (2) A PERSON THAT IS ENGAGED OR PARTICIPATING IN THE BUSINESS
31 OF PROVIDING DEBT MANAGEMENT SERVICES; AND

32 (3) ANY OTHER PERSON THAT THE COMMISSIONER HAS CAUSE TO
33 BELIEVE IS VIOLATING THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS
34 SUBTITLE, WHETHER THAT PERSON CLAIMS TO BE WITHIN OR BEYOND THE SCOPE
35 OF THIS SUBTITLE.

36 (B) FOR THE PURPOSES OF THIS SECTION, THE COMMISSIONER:

1 (1) SHALL BE GIVEN ACCESS TO THE PLACE OF BUSINESS, BOOKS,
2 PAPERS, RECORDS, SAFES, AND VAULTS OF THE PERSON UNDER INVESTIGATION;
3 AND

4 (2) MAY SUMMON AND EXAMINE UNDER OATH ANY PERSON WHOSE
5 TESTIMONY THE COMMISSIONER REQUIRES.

6 (C) IF, AFTER AN INVESTIGATION CONDUCTED UNDER THIS SUBSECTION,
7 THE COMMISSIONER FINDS THAT THE PERSON THAT WAS INVESTIGATED VIOLATED
8 THIS SUBTITLE OR ANY REGULATION ADOPTED UNDER THIS SUBTITLE, THE PERSON
9 ~~BEING INVESTIGATED~~ SHALL PAY ALL REASONABLY INCURRED COSTS OF AN THE
10 ~~INVESTIGATION CONDUCTED UNDER THIS SECTION.~~

11 (D) (1) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF
12 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY
13 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS
14 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE
15 CIRCUIT COURT FOR ANY COUNTY.

16 (2) ON PETITION BY THE COMMISSIONER, THE COURT MAY ORDER THE
17 PERSON TO ATTEND AND TESTIFY OR PRODUCE EVIDENCE.

18 12-924.

19 (A) THE COMMISSIONER MAY CONDUCT AN ON-SITE EXAMINATION OF A
20 LICENSEE WITH OR WITHOUT PRIOR NOTICE.

21 (B) THE LICENSEE SHALL PAY ALL REASONABLY INCURRED COSTS ~~OF~~
22 DIRECTLY RELATED TO AN EXAMINATION CONDUCTED UNDER THIS SECTION,
23 INCLUDING THE TRAVEL EXPENSES, LODGING EXPENSES, AND A PER DIEM FOR
24 EXAMINERS.

25 (C) AN ON-SITE EXAMINATION MAY BE CONDUCTED IN CONJUNCTION WITH
26 AN EXAMINATION PERFORMED BY A REPRESENTATIVE OF A RESPONSIBLE
27 SUPERVISORY AGENCY OF ANOTHER STATE.

28 (D) (1) THE COMMISSIONER, IN LIEU OF AN ON-SITE EXAMINATION, MAY
29 ACCEPT THE EXAMINATION REPORT OF A RESPONSIBLE SUPERVISORY AGENCY OF
30 ANOTHER STATE.

31 (2) A REPORT ACCEPTED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS
32 CONSIDERED FOR ALL PURPOSES AS AN OFFICIAL REPORT OF THE COMMISSIONER.

33 (E) THE COMMISSIONER MAY:

34 (1) EXAMINE ALL BOOKS, ACCOUNTS, AND RECORDS THAT THE
35 COMMISSIONER DETERMINES ARE NECESSARY TO CONDUCT A COMPLETE
36 EXAMINATION, INCLUDING THE BOOKS, ACCOUNTS, AND RECORDS IN THE
37 POSSESSION OF A SUBSIDIARY, AFFILIATE, OR OTHER PERSON THAT RELATE TO THE

1 OPERATION OF AND SERVICES PROVIDED BY THE LICENSEE'S DEBT MANAGEMENT
2 SERVICES BUSINESS; AND

3 (2) EXAMINE UNDER OATH ANY OWNER, OFFICER, DIRECTOR,
4 PRINCIPAL, AND EMPLOYEE OF THE LICENSEE OR ANY OTHER INDIVIDUAL WHO MAY
5 PROVIDE INFORMATION ON BEHALF OF THE LICENSEE.

6 12-925.

7 A LICENSEE SHALL INCLUDE IN ANY ADVERTISEMENT THE LICENSEE'S DEBT
8 MANAGEMENT SERVICES LICENSE NUMBER.

9 12-926.

10 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AND SUBJECT
11 TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE, THE COMMISSIONER
12 MAY DENY A LICENSE TO AN APPLICANT, REPRIMAND A LICENSEE, OR SUSPEND OR
13 REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT OR LICENSEE OR AN
14 OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT OR LICENSEE:

15 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
16 OBTAIN A LICENSE;

17 (2) FRAUDULENTLY OR DECEPTIVELY USES A LICENSE OR DEBT
18 MANAGEMENT SERVICES LICENSE NUMBER;

19 (3) PRESENTS OR ATTEMPTS TO PRESENT THE DEBT MANAGEMENT
20 SERVICES LICENSE NUMBER OF ANOTHER LICENSEE AS THE APPLICANT'S OR
21 LICENSEE'S DEBT MANAGEMENT SERVICES LICENSE NUMBER;

22 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE OR ANY REGULATION
23 ADOPTED UNDER THIS SUBTITLE;

24 (5) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY
25 STATE OF:

26 (I) A FELONY; OR

27 (II) A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE FITNESS
28 AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO ENGAGE IN THE BUSINESS
29 OF PROVIDING DEBT MANAGEMENT SERVICES;

30 (6) IN CONNECTION WITH THE PROVISION OF DEBT MANAGEMENT
31 SERVICES:

32 (I) COMMITS A FRAUD;

33 (II) ENGAGES IN AN ILLEGAL OR DISHONEST ACTIVITY;

34 (III) HAS ENGAGED OR PARTICIPATED IN AN UNSAFE OR UNSOUND
35 ACT; OR

1 (IV) MISREPRESENTS OR FAILS TO DISCLOSE A MATERIAL FACT TO
2 A PERSON ENTITLED TO THAT INFORMATION;

3 (7) ENGAGES IN FALSE, MISLEADING, OR DECEPTIVE ADVERTISING; OR

4 (8) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,
5 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE
6 APPLICANT OR LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY,
7 FAIRLY, AND EQUITABLY.

8 (B) IN DETERMINING WHETHER TO DENY A LICENSE TO AN APPLICANT,
9 REPRIMAND A LICENSEE, OR SUSPEND OR REVOKE THE LICENSE OF A LICENSEE FOR
10 A REASON LISTED IN SUBSECTION (A)(5) OF THIS SECTION, THE COMMISSIONER
11 SHALL CONSIDER:

12 (1) THE NATURE OF THE CRIME;

13 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED
14 BY THE LICENSE;

15 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION
16 TO THE FITNESS AND QUALIFICATION OF THE APPLICANT OR LICENSEE TO PROVIDE
17 DEBT MANAGEMENT SERVICES;

18 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

19 (5) THE BEHAVIOR AND ACTIVITIES OF THE APPLICANT OR LICENSEE
20 SINCE THE CONVICTION.

21 (C) SUBJECT TO THE HEARING PROVISIONS OF § 12-927 OF THIS SUBTITLE,
22 THE COMMISSIONER SHALL DENY A LICENSE TO AN APPLICANT AND SUSPEND OR
23 REVOKE THE LICENSE OF A LICENSEE IF THE APPLICANT OR LICENSEE OR AN
24 OWNER, OFFICER, DIRECTOR, OR PRINCIPAL OF THE APPLICANT OR LICENSEE HAS:

25 (1) COMMITTED A VIOLATION OF SUBSECTION (A) OF THIS SECTION
26 THAT DIRECTLY RESULTS IN PROPERTY DAMAGE OR MONETARY LOSS BY ANY OTHER
27 PERSON; AND

28 (2) HAS NOT RESTORED THE PROPERTY OR MONEY TO THE PERSON OR
29 PAID THE VALUE OF THE PROPERTY TO THE PERSON.

30 12-927.

31 (A) BEFORE THE COMMISSIONER DENIES AN APPLICATION FOR A LICENSE
32 UNDER § 12-910 OF THIS SUBTITLE OR TAKES ANY ACTION UNDER § 12-926 OF THIS
33 SUBTITLE, THE COMMISSIONER SHALL GIVE THE APPLICANT OR LICENSEE AN
34 OPPORTUNITY FOR A HEARING.

1 (B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE
 2 HELD IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
 3 ARTICLE.

4 12-928.

5 ~~(A) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS SUBTITLE~~
 6 ~~BY ISSUING AN ORDER REQUIRING THE VIOLATOR TO:~~

7 ~~(1) CEASE AND DESIST FROM THE VIOLATION AND ANY FURTHER~~
 8 ~~SIMILAR VIOLATIONS; AND~~

9 ~~(2) TAKE AFFIRMATIVE ACTION TO CORRECT THE VIOLATION,~~
 10 ~~INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON AGGRIEVED~~
 11 ~~BY THE VIOLATION.~~

12 ~~(B) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER~~
 13 ~~SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER MAY IMPOSE A CIVIL~~
 14 ~~PENALTY NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING~~
 15 ~~\$5,000 FOR EACH SUBSEQUENT VIOLATION FROM WHICH THE VIOLATOR FAILED TO~~
 16 ~~CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE AFFIRMATIVE~~
 17 ~~ACTION.~~

18 (A) (1) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS
 19 SUBTITLE AND REGULATIONS ADOPTED UNDER THIS SUBTITLE BY:

20 (I) ISSUING AN ORDER REQUIRING THE VIOLATOR:

21 1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY
 22 FURTHER SIMILAR VIOLATIONS; AND

23 2. TO TAKE AFFIRMATIVE ACTION TO CORRECT THE
 24 VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR PROPERTY TO ANY PERSON
 25 AGGRIEVED BY THE VIOLATION; AND

26 (II) IMPOSING A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH
 27 VIOLATION.

28 (2) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER
 29 PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL
 30 PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION FROM WHICH THE VIOLATOR
 31 FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE
 32 CORRECTIVE AFFIRMATIVE ACTION.

33 ~~(C)~~ (B) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT
 34 FOR ANY COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS
 35 SECTION.

1 ~~(D)~~ (C) IN DETERMINING THE AMOUNT OF FINANCIAL PENALTY TO BE
2 IMPOSED UNDER SUBSECTION (A) OF THIS SECTION, THE COMMISSIONER SHALL
3 CONSIDER THE FOLLOWING:

- 4 (1) THE SERIOUSNESS OF THE VIOLATION;
- 5 (2) THE GOOD FAITH OF THE VIOLATOR;
- 6 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;
- 7 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC;
- 8 (5) THE ASSETS OF THE VIOLATOR; AND
- 9 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE
10 FINANCIAL PENALTY.

11 ~~12-929.~~

12 A PERSON WHO KNOWINGLY AND WILLFULLY VIOLATES ANY PROVISION OF
13 THIS SUBTITLE IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE
14 NOT EXCEEDING \$1,000 FOR THE FIRST VIOLATION AND NOT EXCEEDING \$5,000 FOR
15 EACH SUBSEQUENT VIOLATION OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
16 BOTH.

17 ~~12-930.~~

18 IN ADDITION TO ANY OTHER REMEDIES PROVIDED IN THIS SUBTITLE, A
19 CONSUMER MAY BRING A CIVIL ACTION TO RECOVER FOR ANY DAMAGES CAUSED BY
20 A VIOLATION OF THIS SUBTITLE, INCLUDING COURT COSTS AND REASONABLE
21 ATTORNEY'S FEES.

22 ~~12-930.~~ 12-931.

23 THIS SUBTITLE MAY BE CITED AS THE MARYLAND DEBT MANAGEMENT
24 SERVICES ACT.

25 SECTION 2. AND BE IT FURTHER ENACTED, That, in the absence of an
26 order by the Commissioner of Financial Regulation to the contrary, an organization
27 providing debt management services ~~in the State to Maryland consumers~~ on the
28 effective date of this Act may continue to provide debt management services ~~in the~~
29 ~~State to Maryland consumers~~ without being licensed, as required under Section 1 of
30 this Act, until the Commissioner approves or disapproves the organization's
31 application for a license if:

32 (a) the organization applies for a license no later than 60 days after the date
33 the Commissioner makes license applications available; and

34 (b) the organization complies with all other provisions of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That, notwithstanding §
 2 12-912(a) of the Financial Institutions Article, as enacted by Section 1 of this Act, a
 3 license issued on or after October 1, 2003, and on or before December 31, 2003,
 4 expires on December 31, 2005, unless it is renewed for a 2-year term as provided in
 5 § 12-912(b) of the Financial Institutions Article, as enacted by Section 1 of this Act.

6 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1,
 7 2004, the Commissioner of Financial Regulation shall report, in accordance with §
 8 2-1246 of the State Government Article, to the Senate Finance Committee and the
 9 House Economic Matters Committee on the number of licenses that the
 10 Commissioner has issued under this Act and any recommendations for changes to the
 11 Maryland Debt Management Services Act, as enacted by Section 1 of this Act.

12 SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 13 read as follows:

14 **Article - Financial Institutions**

15 12-905.

16 (a) (1) There is a Debt Management Services [Fund that] FUND.

17 (2) THE FUND IS AN ACCOUNT MAINTAINED WITHIN THE STATE
 18 FINANCIAL REGULATION FUND ESTABLISHED UNDER § 2-109 OF THIS ARTICLE.

19 (3) THE FUND consists of:

20 [(1)] (I) All revenue received for the licensing of organizations that
 21 provide debt management services under this subtitle;

22 [(2)] (II) Income from investments that the Treasurer makes for the
 23 Fund; and

24 [(3)] (III) Except as provided in subsection (b) of this section, any other
 25 fee or revenue received by the Commissioner under this subtitle.

26 (b) The Commissioner shall pay all fines and penalties collected by the
 27 Commissioner under this subtitle into the General Fund of the State.

28 (c) The purpose of the Fund is to pay all the costs and expenses incurred by
 29 the Commissioner that are related to the regulation of the debt management services
 30 business under this subtitle, including:

31 (1) Expenditures authorized under this subtitle; and

32 (2) Any other expense authorized in the State budget.

33 (d) [(1)] The Treasurer is the custodian of the Fund.

1 (2) The Treasurer shall deposit payments received from the
2 Commissioner into the Fund.

3 (e) (1) The Fund is a continuing, nonlapsing fund that is not subject to §
4 7-302 of the State Finance and Procurement Article, and may not be deemed a part of
5 the General Fund of the State.

6 (2) Unless otherwise provided by law, no part of the Fund may revert or
7 be credited to:

8 (i) The General Fund of the State; or

9 (ii) A special fund of the State.

10 (f) (1) All the costs and expenses of the Commissioner relating to the
11 regulation of the debt management services business under this subtitle shall be
12 included in the State budget.

13 (2) Any expenditures from the Fund to cover costs and expenses of the
14 Commissioner may be made only:

15 (i) By an appropriation from the Fund approved by the General
16 Assembly in the annual State budget; or

17 (ii) By the budget amendment procedure provided for in § 7-209 of
18 the State Finance and Procurement Article.

19 (3) If, in any fiscal year, the amount of the revenue collected by the
20 Commissioner and deposited into the Fund exceeds the actual appropriation for the
21 Commissioner to regulate the debt management services business under this subtitle,
22 the excess amount shall be carried forward within the Fund.

23 (g) The Office of Legislative Audits shall audit the accounts and transactions
24 of the Fund under § 2-1220 of the State Government Article.]

25 SECTION 6. AND BE IT FURTHER ENACTED, That Section 5 of this Act shall
26 take effect October 1, 2003, contingent on the taking effect of Chapter ____ (H.B.
27 1155) of the Acts of the General Assembly of 2003, and if Chapter ____ does not
28 become effective, Section 5 of this Act shall be null and void without the necessity of
29 further action by the General Assembly.

30 SECTION ~~3~~ 7. AND BE IT FURTHER ENACTED, That, subject to Section 6 of
31 this Act, this Act shall take effect October 1, 2003.

